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CHECKMATE.COM INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ARJUN VASAN,

Plaintiff,

v.

CHECKMATE.COM, INC.,

Defendant.

CHECKMATE.COM, INC.,

Counterclaim-Plaintiff,

v.

ARJUN VASAN,

Counterclaim-
Defendant.

Case No. 2:25-cv-00765-MEMF-AS

Hon. Alka Sagar

DISCOVERY MATTER

**DECLARATION OF REBECCA I.
MAKITALO IN SUPPORT OF
CHECKMATE.COM INC.'S
OPPOSITION TO PLAINTIFF
ARJUN VASAN'S MOTION TO
DETERMINE SUFFICIENCY,
COMPEL DISCLOSURE AND
FOR PHASING OF DISCOVERY
(DKT. 113)**

Complaint Filed: January 28, 2025
Amended Complaint Filed: February
21, 2025

DECLARATION OF REBECCA I. MAKITALO IN SUPPORT OF CHECKMATE.COM INC.'S OPPOSITION TO
PLAINTIFF ARJUN VASAN'S MOTION TO DETERMINE SUFFICIENCY, COMPEL DISCLOSURE AND FOR
PHASING OF DISCOVERY (DKT. 113)

DECLARATION OF REBECCA I. MAKITALO

I, Rebecca I. Makitalo, declare as follows:

1. I am an associate attorney at the law firm of K&L Gates LLP, counsel for Defendant and Counter-Claimant Checkmate.com Inc. (“Defendant” or “Checkmate”) in the above-titled matter. I am duly licensed to practice law in the State of California and before the United States District Court for the Central District of California and am responsible for representing said Defendant in this action. Except where otherwise indicated, all of the information contained herein is based upon my personal knowledge and if called and sworn as a witness, I could and would competently testify thereto.

2. Plaintiff Arjun Vasan (“Plaintiff” or “Vasan”) and Checkmate’s counsel, Rebecca I. Makitalo and Jacob R. Winningham, participated in a Rule 26(f) conference which took place on August 7, 2025, wherein Plaintiff asked Checkmate to prepare a draft of the Joint Rule 26(f) report, with Plaintiff to provide his sections for incorporation by August 11, 2025.

3. Plaintiff failed to timely provide his sections by August 11, 2025, and on August 12, 2025, Checkmate’s counsel reminded Plaintiff “[w]e agreed that you would send your draft on Monday so that we could incorporate your sections into the joint report” and explained that “[w]e have not yet received anything from you. Once I receive your sections, I will incorporate and send you a proposed final draft for review so that we can file the report by the Court’s August 14, 2025 deadline.”

4. Attached hereto as **Exhibit A** is a true and correct copy of the August 12, 2025 email correspondence between Checkmate’s counsel and Plaintiff.

5. On August 12, 2025, Plaintiff instead demanded a “simultaneous exchange of our Rule 26(f) sections so neither side is disadvantaged in review,” and belatedly elected to prepare and file the joint report himself.

6. Attached hereto as **Exhibit B** is a true and correct copy of the August 12, 2025 email correspondence between Plaintiff and Checkmate’s counsel.

17. Upon a comparative review of the second finalized Joint Rule 26(f) Report to the first finalized Joint Rule 26(f) Report sent by Plaintiff, and previously approved by Checkmate for filing, Checkmate’s counsel discovered that Plaintiff’s representation that he only added his “plan to seek full bifurcation as well (in other issues), not just of discovery” was false.

18. On August 14, 2025, Checkmate’s counsel informed Plaintiff of his improper bait and switch tactic indicating that “I see that you’ve now added an entire section on separate trials that was not previously included in the ‘final’ draft I approved at 10:10pm. The deadline to file is approximately 20 minutes away, leaving Checkmate no opportunity to respond to your belated additions in any meaningful way.”

19. Attached hereto as **Exhibit I** is a true and correct copy of the August 14, 2025 email correspondence between Checkmate's counsel and Plaintiff.

20. On August 14, 2025, acknowledging the impropriety of his additions without notifying Checkmate, Plaintiff agreed to file the previously approved Joint Rule 26(f) Report.

21. Attached hereto as **Exhibit J** is a true and correct copy of the August 14, 2025 email correspondence between Plaintiff and Checkmate's counsel.

22. On August 14, 2025, Vasan Varadarajan was served with a subpoena to testify at a deposition and produce documents (the “Varadarajan Subpoena”).

23. Attached hereto as **Exhibit K** is a true and correct copy of the Varadarajan Subpoena.

24. On August 15, 2025, Robert Nessler was served with a subpoena to testify at a deposition and produce documents (the “Nessler Subpoena”).

25. Attached hereto as **Exhibit L** is a true and correct copy of the Nessler Subpoena.

1 37. Attached hereto as **Exhibit R** is a true and correct copy of the August
2 25, 2025 email correspondence from Checkmate's counsel to Plaintiff.

3 38. On August 29, 2025, Checkmate informed Plaintiff that "discovery is
4 ongoing and consistent with the Rules, Checkmate will supplement its disclosures in
5 good faith as soon as additional information becomes available and a calculation of
6 each category of damages can be made."

7 39. Attached hereto as **Exhibit S** is a true and correct copy of the August 29,
8 2025 email correspondence from Checkmate's counsel to Plaintiff.

9 40. Between August 25, 2025 and September 10, 2025, Checkmate and
10 Plaintiff exchanged numerous emails regarding Checkmate's proposed meet-and-
11 confer. Plaintiff initially refused to agree to a meet-and-confer date before agreeing
12 to a meeting on September 10, 2025. After Plaintiff failed to appear at the scheduled
13 meet-and-confer on September 10, 2025, Checkmate contacted Plaintiff about his
14 failure to attend and Plaintiff responded that he would not meet unless the meeting
15 covered Checkmate's purported-deficient discovery. Plaintiff also stated he would
16 not meet unless the meeting was recorded mutually or by "a court reporter at
17 Checkmate's expense."

18 41. Attached hereto as **Exhibit T** is a true and correct copy of the email
19 correspondence between Checkmate's counsel to Plaintiff dated August 25, 2025
20 through September 10, 2025.

21 42. On September 10, 2025, Plaintiff served his third and latest set of
22 Requests for Admission.

23 43. Attached hereto as **Exhibit U** is a true and correct copy of the email
24 correspondence and attachment containing Plaintiff's third set of Requests for
25 Admission.

26 44. On September 15, 2025, Checkmate served Plaintiff with its objections
27 and responses to his first set of Requests for Admission.

1 45. Attached hereto as **Exhibit V** is a true and correct copy of the email
2 correspondence and attachment containing Checkmate’s objections and responses to
3 Plaintiff’s first set of Requests for Admission.

4 46. On September 16, 2025, Checkmate served Plaintiff with its objections
5 and responses to his second set of Requests for Admission.

6 47. Attached hereto as **Exhibit W** is a true and correct copy of the email
7 correspondence and attachment containing Checkmate’s objections and responses to
8 Plaintiff’s second set of Requests for Admission.

9 48. On September 16, 2025, Plaintiff sent an email to Checkmate listing
10 general objections to Checkmate’s objections and responses to Plaintiff’s first set of
11 Requests for Admission. Checkmate responded by requesting a meet-and-confer on
12 the issues first raised by Checkmate on August 25, 2025.

13 49. Attached hereto as **Exhibit X** is a true and correct copy of the September
14 16 and 17, 2025 email correspondence between Plaintiff and Checkmate’s counsel
15 regarding Checkmate’s objections and responses to Plaintiff’s first set of Requests for
16 Admission.

17 50. On September 17, 2025, Plaintiff started a separate email chain regarding
18 Checkmate’s objections and responses to Plaintiff’s second set of Requests for
19 Admission. In this email, Plaintiff stated that Checkmate’s “denial” of “indisputable
20 facts” “will compel [Plaintiff] to serve broader, more burdensome RFPs.”

21 51. Attached hereto as **Exhibit Y** is a true and correct copy of the September
22 17, 2025 email from Plaintiff to Checkmate’s counsel regarding Checkmate’s
23 objections and responses to Plaintiff’s second Set of Requests for Admission.

24 52. On September 18, 2025, Plaintiff started yet another email chain
25 requesting a “consolidated and recorded meet-and-confer” and stating that he
26 expected Checkmate to “withdraw or hold in abeyance” the Nessler and Varadarajan
27 Subpoenas. Checkmate’s counsel reiterated its request for Plaintiff to provide his
28 availability for a meet-and-confer. Over the following days, Plaintiff sent multiple

1 messages seeking restrictions on the deposition of Vasam Varadarajan and telling
2 Checkmate's counsel to "Back off. Now."

3 53. Attached hereto as **Exhibit Z** is a true and correct copy of the email
4 correspondence between Plaintiff and Checkmate's counsel dated from September
5 18, 2025 to September 20, 2025 regarding the Varadarajan Subpoena.

6 54. On October 1, 2025, Plaintiff sent another email seeking a meet-and-
7 confer on a broad swath of discovery concerns. Checkmate responded reminding
8 Plaintiff that he had not yet met-and-conferred regarding the discovery issues first
9 raised in Checkmate's August 25, 2025 correspondence. Checkmate requested an in-
10 person meet-and-confer in accordance with Rule 37. Plaintiff responded to
11 Checkmate's request stating that he would "circle back regarding your proposed
12 dates/times."

13 55. Attached hereto as **Exhibit AA** is a true and correct copy of the October
14 1, 2025 email correspondence between Plaintiff and Checkmate's counsel.

15 56. On October 10, 2025, Checkmate served Plaintiff with its objections and
16 responses to his third set of Requests for Admission.

17 57. Attached hereto as **Exhibit BB** is a true and correct copy of Checkmate's
18 objections and responses to Plaintiff's third set of Requests for Admission.

19 58. On October 23, 2025 and October 24, 2025, Plaintiff sent successive
20 emails demanding that Checkmate submit to an informal discovery conference and
21 that Checkmate submit a Rule 37 joint stipulation. Plaintiff stated that he would meet-
22 and-confer "only on this [his] issue," despite his earlier promise to "circle back
23 regarding [Checkmate's] proposed dates/times." Plaintiff's October 24, 2025 email
24 correspondence was accompanied by a draft "Joint Stipulation."

25 59. Attached hereto as **Exhibit CC** is a true and correct copy of the October
26 23, 2025 and October 24, 2025 email correspondence between Plaintiff and
27 Checkmate's counsel.

1 60. Attached hereto as **Exhibit DD** is a true and correct copy of the draft
2 “Joint Stipulation” attached to Plaintiff’s October 24, 2025 email correspondence.

3 61. On October 27, 2025, Checkmate responded to Plaintiff reminding him
4 that he had not yet complied with Rule 37-1’s letter requirement. In response,
5 Plaintiff again demanded an informal discovery conference while promising an
6 impending discovery motion.

7 62. Attached hereto as **Exhibit EE** is a true and correct copy of the October
8 27, 2025 email correspondence between Plaintiff and Checkmate’s counsel.

9 63. On October 31, 2025, Checkmate again requested a compliant Rule 37-
10 1 letter and reminded Plaintiff that he said he would “circle back regarding
11 [Checkmate’s] proposed dates/times.” In response, Plaintiff stated that he only “said
12 [he] would circle back on being able to visit [Checkmate’s counsel’s] office.” In the
13 same email exchange, Checkmate informed Plaintiff that his draft “Joint Stipulation”
14 did not comport with the requirements of Rule 37-2.1.

15 64. Attached hereto as **Exhibit FF** is a true and correct copy of the October
16 31, 2025 email correspondence between Plaintiff and Checkmate’s counsel.

17 I declare under the penalty of perjury under the laws of California that the
18 foregoing is true and correct.

19 Executed this 17th day of November, 2025 in Los Angeles, California.
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23 Rebecca I. Makitalo
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